

**REAL PROPERTY APPRAISER BOARD  
MAIN LEVEL, ROOM "Z"  
NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**20 May 2010**

**OPENING**

Vice Chairman Bradford Moore called to order the May 20, 2010 meeting of the Nebraska Real Property Appraiser Board at 9:10 a.m., in Room "Z" on the main level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

**NOTICE OF MEETING**

Vice Chairman Moore announced the notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Act, and all Board members received notice simultaneously by e-mail. Publication of an official notice of the meeting on May 17, 2010 in the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. The agenda was kept current in the Nebraska Real Property Appraiser Board Office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Bradford Moore, Matthew 'Joe' Wilson, Philip Barkley, and David Hartman were in attendance. Chairman Mitchell will be in attendance. Director Policky was also in attendance.

**ADOPTION OF THE AGENDA**

Vice Chairman Moore reminded those present for the meeting that the Agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Barkley moved to adopt the Agenda as printed. Board Member Hartman seconded the motion. With no further discussion, the motion carried with Wilson, Barkley, Hartman, and Moore voting aye.

**WELCOME GUESTS**

Vice Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log.

**OPEN SESSION /APPROVAL OF THE MINUTES FROM APRIL 22, 2010**

Vice Chairman Moore asked for any additions or corrections to the April 22, 2010 minutes. With no additions or corrections, Board Member Wilson moved to adopt the minutes as presented. Board Member Barkley seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Wilson, and Moore voting aye.

Vice Chairman Moore proceeded to the Director's Report. The Board will return to the Chairman's Report when Chairman Mitchell arrives.

**DIRECTOR'S REPORT**

Director Policky reported the number of appraisers for May 2010 stands as follows: 113 Registered/Conversion; 103 Licensed; 210 Certified Residential; and 379 Certified General for a total of 805 or an increase of nine appraisers over the total for April 2010 of 797 appraisers. The renewal process, although complete, is ongoing until June 30, 2010. The fluctuation with the certified appraiser totals are most generally in the reciprocal numbers. However, it is a goal of this

Board and this office to encourage appraisers to upgrade to a certified credential. The increase in the certified residential appraisers from a total of 197 in 2009 to a total of 210 in 2010 is the result of appraisers who have upgraded from the licensed residential or registered credentials to the certified residential credential.

The first two pages of LB935 were distributed to each Board member to bring notice to Section 7. Agency Efficiency Review Plans. This office just finished an extensive written procedures project for administrative services accounting in the efficiency of our checks and balances. The Legislature is now asking agencies for an efficiency review plan for FY2010-11 and FY2011-12. The final product will be reported as a part of the budget system and is due by September 1, 2010. Considering this is a two-person agency mandated by both federal and state regulation, there can be no elimination of existing programs. There can be no elimination of employees although the structural and operational changes needed to move from a five-day to four-day work week could be incorporated. There is no duplication of services and changing federal mandates and requirements will not happen. Nebraska is obligated, like every state, to meet the federal guidelines or risk becoming a state unable to perform appraisals for federally-related transactions. A response will be prepared and reported during the budget process. The narratives for the budget process are due by August 2<sup>nd</sup> and the budget is due by September 15<sup>th</sup>.

Director Policky closed the report by thanking the Board for their service and assistance.

## **CHAIRMAN'S REPORT**

In consideration of the number of informal conferences planned for today, Chairman Mitchell proceeded to the receipts and expenditures.

## **RECEIPTS AND EXPENDITURES REPORT – APRIL 2010**

The receipts and expenditures for April were reviewed by the Director by line item with the Board. A total of \$31,962.30 in expenditures and \$4,516.75 in receivables is reported. Expenditures are higher because of contractual services paid which are associated with a hearing. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for April are attached and considered part of these minutes.

Vice Chairman Moore moved to accept and file the April 2010 Receipts and Expenditures report for audit. Board Member Barkley seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

## **UNFINISHED BUSINESS**

### **1. Rules & Regulations/ Rule Hearing**

Distributed to each member was the April 22<sup>nd</sup> adopted rules and regulations. Director Policky included the attestation for NAC Title 298 Nebraska Administrative Code in distributing all required documents to the Governor's Policy Research office, the Secretary of State, and the Executive Board of the Legislative Council. Included with the information is the "Notice of Public Rule-Making Hearing" advertising the hearing on Monday, June 14<sup>th</sup>, 2010 at 9:00 a.m. in the Nebraska Real Property Appraiser Board office. To date, all requirements to proceed with the rule making obligations have been met. We must simply wait until the hearing is held to proceed. The Rule Hearing Notice and the proposed rules and regulations are posted on the Appraiser Board website as well as the Secretary of State's website. To date there have been no oral or written comments in regard to the proposed changes.

## **2. Moving a Registered credential to a Trainee credential.**

Director Policky presented to the members proposed changes made at the April 22<sup>nd</sup> meeting to the option for consideration in formulating policy to address Registered appraisers who have not advanced to a federally-recognized credential under the policy adopted by the Board on November 20, 2008 and are requesting a downgrade to a trainee credential status or who are requesting to hold a trainee credential in addition to their Registered credential. In that the Registered credential is not a federally-recognized credential, downgrading to a federally recognized credential would require meeting the AQB/CAP approved core curriculum education requirements for the trainee designation.

After much deliberation from members, the following motion was presented by Board Member Wilson to adopt the policy as amended:

### **REGISTERED APPRAISERS WHO DOWNGRADE**

The requirements for the Trainee credential are for 75 hours of AQB/CAP approved core curriculum education to include 30/hours Basic Appraisal Principles, 30/hours Basic Appraisal Procedures and 15/hours USPAP. The Trainee credential was adopted under the new criteria effective 1/1/2008. The Nebraska Real Property Appraiser Board adopted the following policy at the April 22, 2010 meeting for Registered appraisers who are interested in downgrading to the Trainee credential . . .

- If by 12/31/2011, the Registered credential holder qualifies to advance to a Licensed Residential, Certified Residential, or Certified General credential, the applicant will retain the approved upgrade value of the pre-requisite education credit as adopted by the Board on November 20, 2008 under the guidelines to upgrade a credential
- Downgrading to a Trainee credential requires that a Registered appraiser have a minimum of 75 hours of AQB/CAP approved core curriculum education to include 30/hours Basic Appraisal Principles, 30/hours Basic Appraisal Procedures and 15/hours USPAP.

In a final note, the Board voted to apply the same application fee of \$150.00 to the Appraiser Trainee credential as the remaining credentials pay to apply for a credential. The fee is applicable for all Trainees who submit an application after April 22, 2010. Only one application fee is required but you must fill out the Supervisor/Trainee form to register each supervisor you may be working under.

Vice Chair Moore seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

A motion by Vice Chairman Moore to change the Board adopted education upgrade matrix as originally adopted October 22, 2008 to reflect the policy for a Registered appraiser to downgrade to a Trainee credential by adding the 30 hours of Principles, 30 hours of Procedures and the 15-hour USPAP under the Registered requirements of the Trainee credential was seconded by Board Member Wilson and unanimously adopted at the April 22, 2010 meeting of the Board.

Chairman Mitchell requested a copy of the adopted policy and changes to the “Upgrade Guidelines” matrix would be electronically sent to each appraiser to give an appraiser adequate time to complete the requirements.

Board took a break at 10:23 a.m.

Board meeting reconvened at 10:40 a.m.

## **NEW BUSINESS**

### **1. County Referee Status**

Director Policky presented to the Board a proposed policy to address the requirements of an appraiser to serve as a referee for the county. Citing the exemptions noted in Neb. Rev. Stat. §76-2221(7) and the parameters to meet the qualifications of employment, the Board formulated a policy to render a clearer understanding of the guidelines to act as a referee. After much discussion, Vice Chair Moore proposed a motion to adopt the following policy and distribute the changes to the appraiser community. The proposed policy reads as follows:

#### **REFeree APPRAISERS FOR COUNTY**

**76-2221 Act; exemptions.** The Real Property Appraiser Act shall not apply to: . . .

(7) Any person appointed by a county board of equalization to act as a referee pursuant to section 77-1502.01, except that any person who also practices as an independent real property appraiser for others shall be subject to the Real Property Appraiser Act and shall be credentialed prior to engaging in such other appraising. Any appraiser appointed to act as a referee pursuant to section 77-1502.01 and who prepares an appraisal report for a county board of equalization shall not sign such appraisal report as a credentialed appraiser and shall include the following disclosure prominently with such report: This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act.

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When an appraiser, acting as an independent contractor to perform work as a referee, signs as an appraiser and/or references his/her appraiser credential or credential number, he/she is subject to USPAP requirements and to the Scope of Practice that would be applicable to a practicing appraiser relevant to the credential earned.

If the appraiser is employed, receiving a W2 as proof of employment, he or she can be considered exempt as they are employed by an exempted entity, the county board. The appraiser can choose to not reference their credential and/or credential number by not signing the report as an appraiser and inserting the disclosure as required upon making such decision. Appraisers acting as referees who are employed and hold a valid credential are not considered exempt if they choose to sign as an appraiser and/or use their credential or credential number.

As an employee, if the credentialed appraiser signs the report as an appraiser and/or references his/her appraiser credential or credential number, the credentialed appraiser is no longer considered exempt as a county employee but will now come under the guidelines and requirements of USPAP and is subject to the appropriate Scope of Practice.

An independent contractor or employee who signs a report that does not meet the guidelines and requirements of USPAP or the appropriate Scope of Practice, must use the disclosure and is not allowed to sign as an appraiser or reference their appraiser credential or credential number.

Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

### **2. Inactivate Credential.**

Director Policky presented to the Board proposed guidelines to inactivate a credential. The

proposed policy included the forms to apply to inactivate a credential as well as the proposed form to activate a credential. Board members made changes and additions to the proposed policy.

With the arrival of guests who had made an appointment to be heard before the Board, Chairman Mitchell recognized Abigail Stempson and Steve Hix from the Attorney General's office and asked that they sign the guest sheet for this meeting. The appearance before the Board by Ms. Stempson and Mr. Hix was in regard to enforcement matters. The Board would proceed to executive session for the protection of those involved and resume the adopted agenda immediately after the closed session.

Vice Chair Moore moved that the Board go into executive session for the purpose of enforcement and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 11:32 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 12:09 p.m. Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Barkley, Hartman and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement action:

10-10 A&B Request a true copy of each report and workfile. Send for Compliance Review.

10-11 A&B Request a true copy of each report and workfile. Send for Compliance Review.

Board took a break at 12:15 p.m.

Board meeting reconvened at 12:25 p.m.

The Board returned to the adopted agenda and resumed its discussion of the proposed guidelines to inactivate a credential. Board Member Wilson suggested an appraiser be permitted to apply for up to a two year inactivation period and must return to the Board to apply to extend the inactivation period for up to two additional years for a total of a four year inactivation period. Application would be made on a yearly basis.

An appraiser would be permitted to make changes to an appraisal completed during an inactive period if the appraiser did not have to change the signature date. Various changes and editing were made with the proposed guidelines as follows:

- ❖ The holder of a valid credential in good standing, other than a Registered credential, can place the credential on an inactive status for a period not to exceed two years with the option to extend the inactive status period for an additional two years. The holder of a credential that has been placed on inactive status shall not:
  - (a) Assume or use any title, designation, or abbreviation likely to create the impression that such individual holds an active credential issued by the Board;
  - (b) Describe or refer to any appraisal or evaluation of real estate by the term state certified or state licensed or words of substantially similar meanings. An

- appraisal or valuation that does not require change to the signature date can be performed;
- (c) Prepare real estate or real property appraisals for federally related transactions which, under Title XI of the financial institutions reform, recovery, and enforcement act of 1989 requires the services of a state certified or licensed appraiser;
  - ❖ The holder of a credential that has been placed on inactive status may request that such credential be reinstated to active status. The request shall be submitted to the board on an application form prescribed by the board and shall be accompanied by the reinstatement fee and the federal registry fee. An applicant for reinstatement shall provide evidence of completion of continuing education hours required by the board to include the USPAP Update course.
  - ❖ A credential holder is permitted to remain on inactive status for no more than two years from the effective date with the option to extend the inactive period for two years. Credential holders who apply to extend the two year period must complete the required continuing education due, submit the total fee for the prior two years, and submit the application for a two year extension on a form approved by the Board. A credential holder who exceeds the two year period shall be required to meet all the adopted requirements for earning a credential under current criteria.
  - ❖ A credential that has been placed on inactive status shall pay the board adopted renewal fee while such credential is on inactive status. Failure to pay the renewal fee will result in an expired credential.
  - ❖ A Registered appraiser shall not be eligible to be placed on inactive status.
  - ❖ A credential placed on inactive status will be reported to the Appraisal Subcommittee as inactive.
  - ❖ The credential holder shall return the wall document and pocket card to the Real Property Appraiser Board with the application for inactive status.
  - ❖ Continuing education submitted for the inactive status period cannot be applied toward current requirements.

The Trainee credential option needs to be added to the application for inactive status as well as the application to reactivate a credential.

Chairman Mitchell requested that the changes and additions be made to the proposed policy and returned to the agenda for final consideration at the June meeting. Board Member Wilson proposed the guidelines to activate and inactivate a credential be adopted with an effective date of 5/20/2010 to accommodate the approaching June 30<sup>th</sup> deadline of the current credentialing period but the proposed guidelines would be returned to the June meeting for final consideration. Board Member Barkley seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

### **3. Staggered Credentialing.**

Informal conferences have been scheduled for 1:00 and 1:30 p.m. Chairman Mitchell respectfully requests the guidelines for consideration in regard to staggered credentialing be returned to the June meeting agenda for consideration.

Board Member Moore proposed a motion to make a change to the adopted agenda by requesting that New Business / Staggered Credentialing, be held until the June meeting for consideration because of the time constraints. Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

## **GENERAL PUBLIC COMMENTS**

Chair Mitchell asked for any public comments. With no further comments, the Chair proceeded to education.

## **EDUCATION**

Vice Chair Moore moved to approve the following continuing education seminars and respective instructors as listed:

### *Continuing Education New:*

1. Appraisal Institute, Chicago, IL:
  - A. "Whatever Happened to Quality Assurance in Residential Appraisals: Avoiding Risky Appraisals and Risky Loans" / 7 hours / C21029  
Instructor: Kathy Coon
  - B. "Advanced Market Analysis & Highest & Best Use / 33 hours / C21030  
Instructors: Robert Dunham & David Lennhoff

### *Core Curriculum Education:*

1. Trans-American Institute Of Professional Studies, Kearney, NE:
  - A. "General Appraiser Market Analysis & Highest & Best Use" /30 hrs. / CG004  
Instructor: Lynne Heiden

### *Qualifying Education:*

2. Trans-American Institute Of Professional Studies, Kearney, NE:
  - B. "The Approaches to Value (Methodology & Applications)" / 21 hrs. / QE21010  
Instructor: Lynne Heiden

Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Moore, and Mitchell voting aye.

The time is approximately 1:00 p.m. The Board will take a break to hold the scheduled informal conferences and reconvene after they are complete.

The Board reconvened at 2:08 p.m.

## **APPLICANTS & ENFORCEMENT**

Vice Chair Moore moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 2:09 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 2:57 p.m. Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, Barkley and Mitchell voting aye.

### **MOTIONS TO ACT ON CLOSED SESSION AGENDA**

Chairman Mitchell opened the floor to discussion of closed session agenda items.

Vice Chair Moore moved to take the following action for the Registered applicants:

R875: Approve to sit for examination.

Vice Chair Moore moved to take the following action for Certified Residential applicant:

CR375 / Deny applicant as submissions failed consistently. Require applicant to successfully complete the 15-hour Residential Report Writing and Case Studies and the 15-hour National USPAP and submit completion documents. After a three-month period, resubmit the log of appraisals completed for Board selection of designated reports for the certified residential credential. Approve to submit top AMP for examination.

Vice Chair Moore moved to take the following action Certified General Reciprocity applicant:

CG603 Applicant meets statutory guidelines. Approve as reciprocal credential.

CG604 Applicant meets statutory guidelines. Approve as reciprocal credential.

Board Member Wilson seconded the motion. Motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 06-22 Hold. Education must be completed by Nov. 30<sup>th</sup> and report submission completed by Dec. 31<sup>st</sup>. Failure to meet deadlines / Dec. 31, file Formal Complaint. Appraiser has not renewed credential for 2010.
- 08-04 Hold. Education due by December 31, 2009. Credential suspended until requirements of Consent Agreement are met. Appraiser has not renewed credential for 2010.
- 09-02 Select report from last log due for review. Send for USPAP Compliant Report.
- 09-21 Board Chairman sign Consent Agreement.
- 09-22 Report sent for Standard 3 Review Report. Accepted report. Dismiss.
- 09-26 Consent Agreement. Due by 5/22/2010.
- 10-03 Consent Agreement 2-day USPAP & General Report Writing & Case Studies.
- 10-05B Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies.
- 10-07A Invite informal conference. Illness. Grant request to reschedule for June meeting.
- 10-07B Invite informal conference. Illness. Grant request to reschedule for June meeting.
- 10-08 Invite informal conference. 8:30 a.m. 6.17.2010.
- 10-09 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-10A Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-10B Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-11A Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-11B Request true copy of report and workfile. Send for Standard 3 Compliance Report.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.



Vice Chair Moore moved to take the following enforcement action:

09-07 Hold. Formal / Hearing. Case sent to Judge.

09-09 Hold. Formal / Hearing. Case sent to Judge.

09-25 Informal 2/15/2010 2:00 p.m., NSOB. Hold until prior hearing is completed.

Board Member Barkley seconded the motion. The motion carried with Moore, Barkley, Hartman, and Mitchell voting aye. Board Member Wilson abstained.

Vice Chair Moore moved to take the following enforcement action:

08-11 Hold / Board granted another extension for education until March 1, 2010. Stress to appraiser there will be no further extensions. Appraiser has not met conditions of Consent Agreement. Appraiser has not renewed 2010 credential to date.

Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, and Mitchell voting aye. Board Member Barkley abstained.

Tentative meeting dates were approved as follows: July 15, 2010 / 1Y

August 19, 2010 / 1Y

September 16, 2010 / 1Y

## **ADJOURNMENT**

Board Member Wilson moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried unanimously.

At 3:02 p.m. Chairman Mitchell adjourned the May 20, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on June 1, 2010, in compliance with Nebraska Statute §84-1413(5).